



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/627,637	07/28/2000	Kenichi Oinoue	P/3541-6	2855

7590 11/15/2004

OSTROLENK FABER GERB & SOFFEN LLP
1180 Avenue of the Americas
New York, NY 10036-8403

EXAMINER

GENCO, BRIAN C

ART UNIT	PAPER NUMBER
----------	--------------

2615

DATE MAILED: 11/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/627,637

Applicant(s)

OINOUE, KENICHI

Examiner

Brian C Genco

Art Unit

2615

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 3 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Attached.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 9 and 10.

Claim(s) objected to: _____.

Claim(s) rejected: 2-5, 7, 8, and 11-15.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Applicant's amendment has added new claims 17-20 which would require further search and/or consideration.

The objection to the drawings still stands. While proposed Fig. 4 shows that various modes can be set there is no indication of where in the specification this drawing is supported. Applicant has merely stated that it is properly described in the instant specification. Assuming arguendo that there is support for Fig. 4 in the specification it still would not overcome the drawing objection. In particular it does not show the setting means decreasing the set memory capacity when said judgment means judges that it is impossible to transmit the recorded information, or the setting means to set and reset the set memory capacity.

The objection to the specification still stands. Applicant has supplied a citation for support that a user may set the memory capacity threshold on page 17, lines 20-22. This section does not disclose the setting means resets the set memory capacity when said judgment means judges that it is impossible to transmit the record information. Applicant has further cited page 15, lines 18-22 for support, however this section is describing the amount of data to be transmitted per unit time, namely reducing the bandwidth of the transmission when the signal is weak. This does not disclose the setting means resets the set memory capacity when said judgment means judges that it is impossible to transmit the record information. Examiner notes that claim 16 was restricted for claiming limitations similar to that described in the above cited section.

Art Unit: 2615

Examiner notes that the claims limit that a setting means sets a memory capacity, upon reaching that capacity the data in the memory is wirelessly transmitted, wherein it is judged whether or not transmission can occur, and if transmission cannot occur, the memory capacity is decreased, namely the memory amount at which transmission occurs is decreased. Examiner maintains that there is no support found in the specification for these claim limitations.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian C. Genco who can be reached by phone at 703-305-7881 or by fax at 703-746-8325. The examiner can normally be reached on Monday thru Friday 8:30am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Christensen can be reached on 703-308-9644. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the customer service office whose telephone number is 703-308-4357.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Brian C Genco
Examiner
Art Unit 2615

November 9, 2004



ANDREW CHRISTENSEN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600